

**TESTIMONY OF CHARLES J. WILLOUGHBY
INSPECTOR GENERAL
BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS
PUBLIC OVERSIGHT ROUNDTABLE ON CONTRACTING AND
PROCUREMENT IN THE DISTRICT OF COLUMBIA
DECEMBER 9, 2005**

GOOD AFTERNOON, CHAIRMAN ORANGE, AND MEMBERS OF THE COMMITTEE. I WELCOME THE OPPORTUNITY TO SHARE WITH YOU OUR PERSPECTIVES CONCERNING PROCUREMENT AND CONTRACTING IN THE DISTRICT OF COLUMBIA. SEATED WITH ME IS WILLIAM DIVELLO, ASSISTANT INSPECTOR GENERAL FOR AUDITS. AS WE HAVE NOTED IN PREVIOUS TESTIMONY, OUR AUDITS AND INSPECTIONS HAVE CONSISTENTLY IDENTIFIED SYSTEMIC PROCUREMENT ISSUES AND NUMEROUS DEFICIENCIES IN DISTRICT CONTRACTING ACTIONS. WHILE DISTRICT MANAGERS HAVE MADE SOME GAINS IN ADDRESSING THESE DEFICIENCIES, OUR MOST RECENT AUDITS, INSPECTIONS, AND/OR INVESTIGATIONS DISCLOSED THAT MANY OF THE FINDINGS ARE REPEAT FINDINGS OR FINDINGS OF A SIMILAR NATURE. FOR EXAMPLE, DURING THE PAST FISCAL YEAR, AUDITS PERTAINING TO THE

DISTRICT'S ADMINISTRATIVE SERVICES MODERNIZATION PROGRAM AND HOMELAND SECURITY EFFORTS DISCLOSED REPEATED PROBLEMS. THESE PROBLEMS INCLUDE INEFFECTIVE COMPETITION, MISSING CONTRACT FILE DOCUMENTATION, FAULTY SOLE-SOURCE JUSTIFICATIONS, LACK OF PROCUREMENT TRAINING, NON-COMPLIANCE WITH LAWS AND REGULATIONS, LITTLE OR NO EFFECTIVE CONTRACT ADMINISTRATION, UNAUTHORIZED COMMITMENTS AND PURCHASES, AND OTHER CONTRACTING ISSUES.

IN GENERAL, THE DISTRICT COMPARES FAVORABLY WITH OTHER GOVERNMENT ENTITIES IN IMPLEMENTING VARIOUS AUDIT RECOMMENDATIONS, BUT OUR MOST RECENT FOLLOW-UP REPORT SHOWS THAT MANY OF THE RECOMMENDATIONS RELATING TO PROCUREMENT REMAIN OPEN. FOR EXAMPLE, OF THE 78 OPEN RECOMMENDATIONS IDENTIFIED IN OUR REPORT, 40 OF THESE OPEN RECOMMENDATIONS ARE CONTRACT-RELATED. HOWEVER, IT SHOULD BE NOTED THAT 12 OF THE RECOMMENDATIONS PERTAIN TO D.C. PUBLIC SCHOOLS, WHICH HAS ITS OWN PROCUREMENT AUTHORITY.

BY LAW, THE IG IS MANDATED TO REVIEW PROCUREMENT EACH YEAR. FOR THE PAST 5 YEARS, WE HAVE CITED PROCUREMENT IN OUR ANNUAL AUDIT AND INSPECTION PLANS AND ANNUAL REPORTS AS A HIGH RISK AREA DUE TO LAPSES IN PROCUREMENT AND CONTRACTING OPERATIONS. ALTHOUGH THESE LAPSES HAVE RESULTED IN COSTLY SIDE EFFECTS AND INEFFICIENCIES, WE DO NOT BELIEVE THEY HAVE NEGATIVELY IMPACTED THE OVERALL FINANCIAL HEALTH OF THE CITY. NEVERTHELESS, SYSTEMIC PROBLEMS IN THE DISTRICT'S PROCUREMENT AND CONTRACTING PROGRAMS ARE UNACCEPTABLE BECAUSE THEY DRAIN SCARCE RESOURCES, AND OFTEN DO NOT RESULT IN THE BEST VALUE FOR THE DISTRICT.

BEGINNING WITH A MANAGEMENT IMPLICATION REPORT ON PROCUREMENT THAT WE ISSUED IN SEPTEMBER 2002 (WHICH IS ATTACHED TO MY STATEMENT), AND FOLLOWED BY ABOUT 25 PROCUREMENT OR PROCUREMENT-RELATED AUDITS THAT WE HAVE ISSUED SINCE THAT TIME, WE CONTINUE TO

IDENTIFY CONSISTENT AND PERVASIVE PROBLEMS IN THE DISTRICT'S PROCUREMENT PROGRAM. ACCORDINGLY, WE AUDIT PROCUREMENT AND CONTRACTING ISSUES ON A CONTINUING BASIS. FOR EXAMPLE, SOME OF OUR ONGOING AND PLANNED AUDITS INCLUDE:

- D.C. NET CONTRACTS,
- DOH CONTRACTS,
- DCPS CAPITAL IMPROVEMENT PROGRAM,
- LOCAL SMALL DISADVANTAGED BUSINESS ENTERPRISE CONTRACTING,
- EXPERT AND CONSULTING CONTRACTS, AND
- CONTRACT FILE MANAGEMENT.

ADDITIONALLY, BEGINNING THIS FISCAL YEAR, THE OIG WILL INITIATE A FULL-TIME RESIDENT AUDIT SITE AT DCPS TO CONDUCT AUDITS, INTERACT WITH SCHOOL OFFICIALS FOR PROMPT RESOLUTION AND/OR AGGRESSIVELY FOLLOW-UP ON PAST RECOMMENDATIONS, AND ADVISE SCHOOL OFFICIALS OF THE ACTIONS NEEDED TO RESOLVE RECURRENT DEFICIENCIES.

SOME OF THE MORE PERSISTENT AND EMBEDDED PROBLEMS
FOUND IN OUR AUDITS, INSPECTIONS, AND/OR INVESTIGATIONS
OF DISTRICT AGENCIES INCLUDE:

- POOR PROCUREMENT PLANNING;
- OVERUSE AND MISUSE OF SOLE-SOURCE
PROCUREMENTS, ESPECIALLY IN THE AWARD OF
CONSULTING CONTRACTS;
- FAILURE TO ESTABLISH A FAIR AND REASONABLE
PRICE BASIS FOR AWARDED CONTRACTS;
- LITTLE OR NO USE OF COMPETITION, EVEN WHEN
AVAILABLE;
- LITTLE OR NO EFFECTIVE CONTRACT
ADMINISTRATION;
- INSUFFICIENT NUMBER OF EXPERIENCED
PROCUREMENT PERSONNEL;
- LACK OF AN EFFECTIVE PROCUREMENT TRAINING
PROGRAM TO CREATE A CADRE OF PROCUREMENT
PROFESSIONALS;
- LACK OF AN EFFECTIVE MECHANISM TO ESTABLISH
ACCOUNTABILITY FOR PROCUREMENT ACTIONS;

- INEFFECTIVE MEANS FOR ESTABLISHING CONTRACT DELIVERABLES; AND
- REPETITIVE FAILURE TO ADHERE TO EXISTING PROCUREMENT LAWS AND RULES.

MANY OF OUR PAST AND RECENT AUDIT RECOMMENDATIONS ADDRESS ASPECTS OF THE ISSUES DISCUSSED ABOVE.

ACCORDINGLY, WE DO NOT BELIEVE THAT IT IS NECESSARY FOR OUR OFFICE TO INCREASE THE NUMBER OF PROCUREMENT AUDITS. INSTEAD, BASIC INTERNAL CONTROLS— BY THAT I MEAN PREVENTIVE, DETECTIVE, AND CORRECTIVE CONTROLS—ARE AVAILABLE TO DISTRICT PROCUREMENT PROFESSIONALS AND MANAGERS AND THEY SHOULD BE IMPLEMENTED. THE PROCUREMENT SYSTEM, AS WE KNOW IT, IS TRANSPARENT AND WORKABLE, AS LONG AS KEY PROCUREMENT FUNCTIONS REMAIN SEGREGATED AND INDIVIDUALS DO NOT CIRCUMVENT EXISTING LINES OF RESPONSIBILITY. OUR POINT HERE IS THAT CONTROLS ARE IN PLACE, BUT ARE TOO OFTEN CIRCUMVENTED. NO NUMBER OF OVERSIGHT OFFICIALS OR EXAMINATIONS WILL PREVENT

ABUSIVE AND INEFFICIENT PROCUREMENT PRACTICES IF THOSE ENTRUSTED WITH CONTRACTING AUTHORITY FAIL TO ADHERE TO THE BASIC GUIDELINES. THAT SAID, WE BELIEVE THERE ARE SEVERAL AREAS WHERE AGGRESSIVE ACTION IS NEEDED TO IMPROVE DISTRICT PROCUREMENT AND CONTRACTING. THESE AREAS RELATE TO TRAINING, THE APPROVAL PROCESS, ACCOUNTABILITY, SOLE-SOURCING, CONTRACT OFFICERS, AND DIRECT PAYMENT VOUCHERS.

- WITH RESPECT TO TRAINING, WHILE THE DISTRICT HAS A TRAINING PROGRAM FOR PROCUREMENT PROFESSIONALS, IT HAS NOT DESIGNED THE PROGRAM TO GENERATE A POOL OF PROCUREMENT PROFESSIONALS SIMILAR TO THAT AVAILABLE IN THE FEDERAL GOVERNMENT AND PRIVATE SECTOR.
- AS TO APPROVAL SYSTEMS, WHILE PROCUREMENTS OVER \$1 MILLION ARE REQUIRED TO HAVE THE COUNCIL'S APPROVAL, WE BELIEVE ALL PROCUREMENTS IN EXCESS OF \$1 MILLION SHOULD BE PACKAGED—BY THAT WE MEAN THE COLLECTION AND SUBMISSION OF ALL DOCUMENTATION TO

SUPPORT/JUSTIFY THE CONTRACT. THESE PROCUREMENTS SHOULD THEN BE SIGNED OFF BY BOTH THE CONTRACTING OFFICER AUTHORIZED TO AWARD THE CONTRACTS AND THE AGENCY HEAD.

- CONCERNING ACCOUNTABILITY, THERE IS A NEED TO TIGHTEN ACCOUNTABILITY OVER INDIVIDUALS WHO INITIATE PROCUREMENT ACTIONS, ESPECIALLY WHEN THOSE ACTIONS FAIL TO COMPLY WITH DISTRICT GUIDELINES AND/OR PROVE TO BE COSTLY OR INEFFICIENT.
- WITH RESPECT TO CURRENT SOLE-SOURCE CONTRACTING RULES, THE DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS PERMIT SOLE-SOURCE CONTRACTS TO BE AWARDED UNDER VARIOUS CIRCUMSTANCES. THESE REGULATORY GUIDELINES NEED TO BE CAREFULLY EVALUATED AND REVISED TO TIGHTEN EXCEPTIONS TO THE GENERAL RULE REQUIRING COMPETITION. CURRENTLY, THESE EXCEPTIONS ARE USED TO JUSTIFY MANY SOLE-SOURCE CONTRACTS THAT COULD HAVE BEEN

COMPETED. FOR EXAMPLE, OUR AUDITS DISCLOSED INSTANCES WHERE TASK ORDERS WERE ISSUED AGAINST EXISTING FEDERAL SUPPLY SCHEDULE CONTRACTS, BUT THE OFFICE OF CONTRACTING AND PROCUREMENT FAILED TO ADHERE TO FEDERAL GUIDELINES THAT REQUIRE ISSUING A REQUEST FOR QUOTATIONS (RFQ) TO AT LEAST THREE SUPPLY SCHEDULE CONTRACTORS. UNDER CERTAIN CIRCUMSTANCES, THE DISTRICT COULD HAVE ISSUED ITS OWN CONTRACTS, ACCORDING TO D.C. CODE § 2-303.05, USING THE LISTED FEDERAL SCHEDULE CONTRACTORS, TO AWARD CONTRACTS ON A SOLE-SOURCE BASIS. HOWEVER, WE BELIEVE THAT THIS METHOD PROVIDES A MECHANISM THAT WILL ONLY PERPETUATE THE PROBLEMS INHERENT IN SOLE-SOURCE CONTRACTING IF CHANGES ARE NOT FORTHCOMING.

- AS TO CONTRACTING OFFICERS, THE DISTRICT NEEDS TO EVALUATE ITS STAFF OF CONTRACTING OFFICERS TO DETERMINE EXPERIENCE LEVELS, NEEDED

CHANGES IN WARRANTING AUTHORITY, ADEQUACY OF PROFESSIONAL TRAINING AND THEIR PERFORMANCE RECORD.

- FINALLY, CONCERNING DIRECT PAYMENT VOUCHERS, ALTHOUGH WE HAVE PERFORMED ONLY LIMITED WORK ON CONTRACT PAYMENT METHODS, WE HAVE OBSERVED INSTANCES WHERE DIRECT PAYMENT VOUCHERS WERE INAPPROPRIATELY USED. THE LEGAL EXCEPTIONS (CURRENTLY 28 EXCEPTIONS) FOR USE OF DIRECT PAYMENT VOUCHERS NEED TO BE EXAMINED AND POSSIBLY FURTHER RESTRICTED. ADDITIONALLY, THE INTENTIONAL USE OF DIRECT PAYMENT VOUCHERS FOR ANYTHING OTHER THAN THE LEGAL EXCEPTIONS SHOULD CARRY SERIOUS CONSEQUENCES.

ACCORDINGLY, WE BELIEVE DISTRICT LAWS AND REGULATIONS NEED TO BE STRENGTHENED TO ADDRESS THE ISSUES DISCUSSED ABOVE. COMBINING STRONG PROCEDURAL GUIDANCE WITH A CLEAR COMMITMENT FROM PROCUREMENT MANAGEMENT OFFICIALS TO EFFECT CHANGE AND HOLD

CONTRACTING OFFICIALS ACCOUNTABLE IS NEEDED TO HELP
MITIGATE THE RISKS NOW POSED BY THE DISTRICT'S
PROCUREMENT PROGRAM.

THANK YOU FOR PROVIDING ME THE OPPORTUNITY TO SHARE
WITH YOU MY THOUGHTS ON THE DISTRICT'S PROCUREMENT
AND CONTRACTING PROGRAM. AT THIS TIME, MY
COLLEAGUES AND I WILL BE HAPPY TO ANSWER YOUR
QUESTIONS.